

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Frank Addante

Art Unit : 1796

Serial No. : 09/851,029

Examiner : Tri V. Nguyen

Filed : May 7, 2001

Conf. No. : 2494

Title : METHOD AND APPARATUS FOR TRANSACTION TRACKING OVER A  
COMPUTER NETWORK

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

REPLY BRIEF

Pursuant to 37 C.F.R. § 41.41, Applicant responds to the Examiner's Answer as follows

**The Examiner's Answer has concurred with the Applicant, which states that the prior art of record fails to describe or suggest "providing the cookie from the user node to the ad server whenever the user makes a transaction at a sale site associated with the advertisement," as required by claim 78.**

In applying the prior art of record to the claims, the Examiner's Answer agrees that the prior art of record fails to describe or suggest limitations in claim 1. The Examiner's Answer notes, "[h]owever, the Merriman reference does not explicitly teach the feature of a transaction being the trigger event for tracking of the cookies at the ad server."

**The Examiner's Answer cannot rely on Messer to address these limitations because Messer is directed to a different architecture.**

Messer first notes that query string sent in a search query. See page 8, lines 12-14. Messer then proceeds to note that, "[d]uring the linking process, the USER has an identifier query string appended to the HTTP entry, and possibly a 'cookie' placed on their system. These act as a marker to permit tracking of the USER by the Merchant and Clearinghouse, determine if and when the USER was involved in a purchase, and how to allocate the purchase commission

to the Site Owner." Thus, contrary to claim 1, Messer fails to state, "providing the cookie from the user node to the ad server whenever the user makes a transaction at a sale site associated with the advertisement." Emphasis added.

**The position set forth in the Examiner's Answer cannot be maintained because the Examiner's Answer relies upon an interpretation of the Merchant Server and the Clearinghouse Server that is contrary to the prior findings of the BPAI.**

Not only does the prior art of record fail to describe or suggest the limitations of claim 78 for the reasons set forth above, the Office is relying on a construction of the prior art that stands in contradiction to the prior fact finding of the BPAI. The Examiner's Answer notes that "it is noted that a broad and reasonable interpretation of the 'ad server feature would be met by a server that provides advertisement thus both the Merchant and the Clearinghouse are deemed to be 'ad server' since Messer teaches that the components of the advertisement are provided by the Merchant and the Clearinghouse (page 10, liens 3-5; page 12, lines 4-5; page 13, lines 1-17)."

The BPAI has already established that Messer failed to describe or suggest these limitations. See, e.g., page 12 ("We agree with the Appellant. The Examiner cites Messer 13:24-14:8 16 for support. The Examiner further construed Messer's content site to be an [[ 17 ]] ad server and found that the cookie was edited at several sites. We find that [[ 18 ]] the only description of editing a cookie at a specified server in Messer [[ 19 ]] occurs at the Merchant server (FF 05). The Examiner cites no specific portion of Messer to support the finding that a cookie is edited at several [[ 2 ]] sites, and the portion the Examiner cited for general support refers only to operations on the Merchant server. We find no portion of Messer to describe editing at other than the Merchant server. An ad server is simply a server for the administration of advertising. In Messer, this is performed by its Clearinghouse server (FF 04 & 05). There is nothing in Messer that suggests its Merchant server is an ad server."). Thus, the Board has already recognized the fundamental differences between our architecture and the Merchant server employed by Messer.

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For these reasons, and the reasons stated in the Appeal Brief, Applicant submits that the final rejection should be reversed. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

1/26/2011  
Date: \_\_\_\_\_

/Thomas A. Rozylowicz/

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